

Message Text

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42

ACTION AF-18

INFO OCT-01 EUR-25 NEA-10 ISO-00 DRC-01 USIE-00 CIAE-00

DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10 PA-04

RSC-01 PRS-01 SPC-03 SS-20 ACDA-19 IO-14 AID-20 SY-10

SCA-01 /181 W

----- 003643

P R 151420Z NOV 73

FM AMEMBASSY KHARTOUM

TO SECSTATE WASHDC PRIORITY 7360

INFO AMEMBASSY BRUSSELS

AMEMBASSY BEIRUT

LIMITED OFFICIAL USE KHARTOUM 2480

USIA FOR IBS; IPS AND INE

BEIRUT FOR VOA ROBERTS

E.O. 11652: N/A

TAGS: PINS SU

SUBJ: KHARTOUM ASSASSINATION: MAGISTERIAL INQUIRY

REF: KHARTOUM 2435

1. BEGIN SUMMARY: MAGISTERIAL INQUIRY CONVENED NOV. 15.
NEXT SESSION SCHEDULED FOR NOV. 18 FOLLOWING MAGISTRATE
CONSIDERATION DEFENSE/PROSECUTION BRIEFS THAT (A) PROCEEDINGS
SHOULD BE SUMMARY OR NON-SUMMARY, AND (B) WHETHER
DEFENDANTS HAVE RIGHT TO ADDRESS COURT DIRECTLY. END SUMMARY.

2. THE PROCEEDINGS. EMB OBSERVERS REPORT NOV. 15
SESSION BEGAN TWO HOURS LATE AND LASTED ABOUT TWO HOURS.
ASSASSINS ENTERED HALL SHOUTING PRO-PALESTINE AND ANTI-US
SLOGANS, BUT THERE WAS NO RESPONSE FROM PALESTINIAN
STUDENTS IN GALLERY (IN CONTRAST TO SEPT. 25 SESSION).

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SECURITY ON ACCESS TO HALL IMPROVED BUT ATTENDEES (INCLUDING

PLO REP ABU KHEIR) PERMITTED MINGLE FREE, WITH DEFENDANTS PASSING CIGARETTES ETC. PUBLIC ATTENDANCE MUCH REDUCED FROM PREVIOUS SESSION; ABOUT 17 JOURNALISTS (MOSTLY LOCAL STRINGERS) WERE PRESENT.

3. PROCEEDING SUBSEQUENTLY ADJOURNED TO NOV. 18 TO ALLOW MAGISTRATE MUSTAFA BASHAR RENDER JUDGMENT ON TWO ISSUES CONTESTED BY PROSECUTION AND DEFENSE: SUMMARY VS. NON-SUMMARY PROCEDURE AND RIGHT OF DEFENDANTS TO ADDRESS COURT DIRECTLY.

A. SUMMARY VS. NON-SUMMARY. PROSECUTION STRESSED NEED FOR SUMMARY PROCEDURE (WHICH IS QUICKER, USES WRITTEN STATEMENTS AND AVOIDS CROSS-EXAMINATION) BASED ON EXISTENCE "CONCRETE" CASE INCLUDING EIGHT CONFESSIONS. DEFENSE CHALLENGED ON GROUND CASE NOT ESTABLISHED AND SUMMARY PROCEDURE WOULD DEPRIVE DEFENDANTS OF "RIGHT" TO IMMEDIATE RELEASE ON JURISDICTIONAL GROUNDS (AN ASSERTION REBUTTED BY PROSECUTION). THIS WAS NOT "ORDINARY" TRIAL AND UNLESS DEFENDANTS GIVEN FULL OPPORTUNITY PRESENT "POLITICAL" FACTOR AN "INJUSTICE" WOULD EXIST. MAGISTRATE REQUESTED LEGAL BRIEF FOR HIS CONSIDERATION.

B. RIGHT TO ADDRESS COURT DIRECTLY. AS EARLY POINT DEFENDANT SPOKESMAN (RIDZIK QAS) BEGAN TO READ STATEMENT JUSTIFYING THEIR ACT ON DEVELOPMENTS IN MIDDLE EAST INCLUDING US ARMS RESUPPLY OF ISRAEL AND BELGIAN ARMS FACTORY FOR ISRAEL. AFTER SEVERAL MINUTES MAGISTRATE STOPPED RIDZIK DEMANDING HALT TO REFERENCES TO US AND BELGIUM PROSECUTION FOLLOWED BY CHALLENGING RIGHT DEFENDANTS ADDRESS COURT AND NOTED THAT, IN ANY CASE, OPPORTUNITY FOR CITING JUSTIFICATION COMES AT LATER STAGE IN JUDICIAL PROCESS. RIDZIK CONTINUED BY REBUTTING PROSECUTION TO EFFECT THAT DEFENDANTS WERE NOT KILLERS AND THAT "ANYONE WHO SAYS SO IS A ZIONIST OR US AGENT". HE ADDED DEFENDANTS WERE APPEARING IN COURT VOLUNTARILY AND COULD HAVE AVOIDED IT BY EXERCISING THEIR "RIGHTS". MAGISTRATE INFORMED DEFENDANTS PURPOSE OF JUDICIAL PROCEDURE IS TO ESTABLISH GUILT OR INNOCENCE; ASKED FOR BRIEFS ON RIGHT OF DEFENDANTS TO ADDRESS COURT OR NOT. (MEANING OF "RIGHTS" UNCLEAR, BUT WE UNDERSTAND PROSECUTION PRIVATELY INTERPRETED IT TO IMPLY THREAT OF KIDNAPPING OR OTHER TERRORIST ACT TO FORCE RELEASE AND THUS REFERRED TO STATEMENT AS LIMITED OFFICIAL USE

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"BLACKMAIL" ATTEMPT SUFFICIENT TO JUSTIFY CONTEMPT OF COURT. HOWEVER, PROSECUTION WOULD SEEK "ESTABLISH GUILT RATHER THAN PLAY POLITICS").

3. FOR USIA/VOA: MEDIA COVERAGE SHOULD BE LIMITED TO FACT THAT SESSION HELD, AND THAT IT ADJOURNED TO NOV. 18 TO PROVIDE MAGISTRATE OPPORTUNITY STUDY LEGAL ASPECTS OF THE TWO ISSUES NOTED PARA. 2. BREWER

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